

persuasive and withdrew the rejection of claims 1, 3, and 4 under 35 U.S.C. § 102(b) and the rejection of claims 2 and 5 under 35 U.S.C. § 103. The Examiner, however, found new grounds for rejection by rejecting claims 1-4 under 35 U.S.C. § 102(b) as being anticipated by Plowman et al. (US 4732660), and rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Plowman et al.

Plowman et al. is an entirely new reference used to articulate entirely new grounds for rejection of all pending claims. The Applicant should be entitled to a full and fair opportunity to address the new reference. The Applicant's earlier amendment to claim 1 only limited claim 1 to an anode, cathode, solid polymer electrolyte membrane disposed between the anode and the cathode, and an auxiliary electrode disposed between the cathode and the solid polymer electrolyte membrane, and by requiring the auxiliary electrode to be "in the form of a net having 10-100 meshes and a thickness of 0.1-2.0 mm." These components were present in the original claim 1, and claim 2 already limited the auxiliary electrode to a mesh shape. Hence these limitations added by Applicant's prior amendment should not have caused further searching. Moreover, the Examiner in his most recent Official Action does not explain where Plowman suggests a mesh net having 10-100 meshes and a thickness of 0.1-2.0 mm. Therefore, Applicant's *amendments* could not have necessitated the new grounds for rejection as set forth in the present Office Action.

A second Official Action should not be made final if it includes a new ground of rejection not necessitated by Amendment of the Applicant. MPEP 706.07(a). Again, Applicant deserves a

In re Application: Nam, Sang Seon

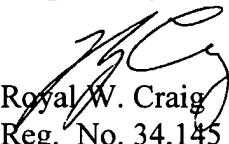
Application No. 10/563,541

Page 3

full and fair opportunity to address these new rejections based on the new prior art cited in the Office Action, and respectfully requests the same. Consequently, the Examiner's issuance of a final Official Action is thought to be premature, and the applicant respectfully requests that the finality of the rejection be withdrawn.

* * *

Respectfully submitted,


Royal W. Craig
Reg. No. 34,145
(410) 385-2383
Attorney for Applicant

Ober, Kaler, Grimes & Shriver
120 East Baltimore Street, Suite 800
Baltimore, MD 21202-1643
Telephone: 410-347-7303
Facsimile: 443-263-7503